

COPY

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

THE CITY OF CHICAGO a municipal
corporation, Cook County, Illinois,

Petitioner

v.

NORFOLK SOUTHERN RAILWAY COMPANY

and

INDIANA HARBOR BELT RAILROAD COMPANY

and

DEPARTMENT OF TRANSPORTATION
OF THE STATE OF ILLINOIS

and

ARROW TERMINALS, L.P.

Respondents.

IN THE MATTER of the Petition for an Order
of the Illinois Commerce Commission authorizing:
the establishment of a new grade crossing at the
intersection of 126th Place with the tracks of the
Norfolk Southern Corporation in the City
of Chicago, Cook County, Illinois, directing
thereon the installation of automatic protection
devices and construction of a proper crossing to be
paid by the City of Chicago; the reconstruction
of an existing grade crossing at the intersection of
126th Place with the tracks of the Indiana Harbor
Belt Railroad in the City of Chicago, Cook County,
Illinois, directing thereon the installation of cross bucks
and reconstruction of a proper crossing to be paid
by the City of Chicago; and the removal of an existing
viaduct structure to be paid by the City of Chicago
carrying a rail line no longer in use of the Indiana Harbor
Belt Railroad over 126th Place in the City of Chicago,
Cook County, Illinois

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JAN 17 2002

Illinois Commerce Commission
RAIL SAFETY SECTION

No. T01-0018

DOCKETED

City of Chicago's Application for Rehearing

The City of Chicago ("City"), by its attorney, Mara S. Georges, Corporation Counsel, pursuant to Section 200.880 of the Illinois Commerce Commission's rules of practice, hereby files an Application for Rehearing in this matter. In support thereof, the City states the following:

1. The City supports the Illinois Commerce Commission's Order dated December 19, 2001 granting the City's Petition in this matter. ("Commission Order") The Commission's Order properly approves the Agreement entered into by the City, Norfolk Southern Railway Company ("Norfolk"), the Indiana Harbor Belt Railroad ("IHBR") and Arrow Terminals, L.P. ("Arrow") for the construction of a new at-grade crossing, the reconstruction of an existing at-grade crossing and the demolition of a viaduct. ("Agreement")
2. As the Commission's Order states, evidentiary hearings were conducted during which witnesses for the City, Norfolk and IHBR provided testimony supporting the Agreement. Order at p. 2 Further, there was no objection to the Agreement. Id.
3. The Commission Order, however, inadvertently misstates certain facts that are not supported by the record and are contrary to the express terms of the Agreement.
4. The first misstatement of fact relates to the proper identification of the owner of the railroad tracks that traverse 126th Street, the intersection of which creates the at-grade crossing that will be reconstructed. The Commission Order erroneously states that the tracks are owned by IHBR. See Order at p. 3, finding 7. In fact, as the uncontradicted

testimony and the Agreement indicate, the tracks are owned by Arrow.

Also, the testimony and Agreement support the finding that Arrow, not IHBR, agrees to perform the reconstruction of the crossing and the installation of the crossbuck signs, the cost of which will be paid for by the City. Also, as provided in the Agreement, IHRB will assist Arrow in the preparation and filing of regulatory compliance documents required in regard to the reconstructed at-grade crossing.

Accordingly, the Commission Order should be amended to correct this misstatement of fact as provided in Exhibit A, attached to this Application for Rehearing.

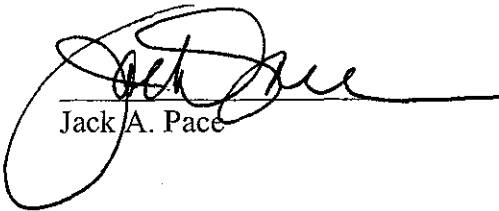
5. The second misstatement of fact relates to the scope of City responsibility for costs associated with the new and reconstructed at-grade crossings. The Commission Order erroneously finds that future maintenance costs, in addition to the costs of construction, shall be borne by the City. See Order at p. 4, finding 9. In fact, the uncontradicted testimony and the Agreement both support the finding that the City shall pay for the construction costs for both crossings, but not future maintenance costs. Future maintenance costs for the new at-grade crossing shall be the responsibility of Norfolk and future maintenance costs for the reconstructed at-grade crossing will be the responsibility of Arrow.

Accordingly, the Commission Order should be amended to correct this misstatement of fact as provided in Exhibit A, attached to this Application for Rehearing.

WHEREFORE, for the reasons stated herein, the City of Chicago respectfully requests that the Commission Order in this matter be amended as set forth in Exhibit A, attached hereto.

Respectfully submitted,

City of Chicago
Mara S. Georges, Corporation Counsel

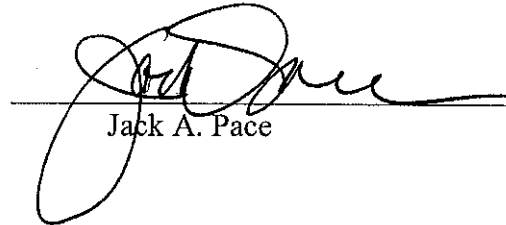


Jack A. Pace

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Corporation Counsel
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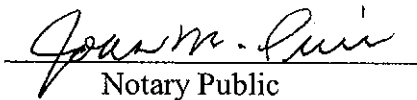
VERIFICATION

I, Jack A. Pace, an attorney with the City of Chicago, verify that the statements made in the Application for Rehearing, are true and accurate to the best of my knowledge and belief.

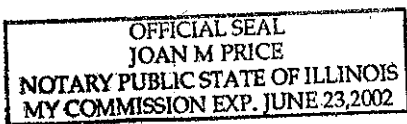


Jack A. Pace

Signed and Sworn before me
this 16th day of January, 2002



Notary Public



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ILLINOIS COMMERCE COMMISSION**

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Belt Railroad over 126th Place in the City of Chicago,
Cook County, Illinois


No. T 01-0018

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on January 16, 2002, I caused to be mailed to Kevin Sharpe, Clerk Railroad Section, Illinois Commerce Commission, 527 East Capitol Avenue, P.O. Box 19280, Springfield, Illinois 62794-9280, by Federal Express, the original and three(4) copies of the Application for Rehearing in the above-captioned docket.

Dated: January 16, 2002

A handwritten signature in black ink, appearing to read "Jack A. Pace", is written over a horizontal line.

Jack A. Pace
Assistant Corporation Counsel
30 North LaSalle Street, Suite 900
Chicago, Illinois 60602
(312) 744-6997

CERTIFICATE OF SERVICE

I, Jack A. Pace, an attorney, hereby certifies that a copy of the foregoing Application for Rehearing in this Docket was served upon the party or parties listed on the attached service list, by Federal Express, hand delivery, e-mail or first class mail, postage prepaid, from Suite 900, 30 North LaSalle Street, Chicago, Illinois 60602, on January 16, 2002, in accordance with the Rules of Practice of the Illinois Commerce Commission.


Jack A. Pace

**126th PLACE PROJECT
SERVICE LIST**

Mr. Roger A. Serpe
Indiana Harbor Belt Railroad Company
111 West Jackson Blvd.
Suite 2215
Chicago, Illinois 60604-3503

Ms. June Tate
Hearing Examiner
Illinois Commerce Commission
160 North LaSalle Street
Suite 800
Chicago, Illinois 60601

Mr. Henry Humphries
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, Illinois 62794-9280

Mr. Chris Wuellner
City of Chicago
Department of Transportation
30 North LaSalle, Suite 1402
Chicago, Illinois 60602

Mr. Steve Caudel
Terminal Manager
Arrow Terminals, L.P.
2926 East 126th Street
Chicago, Illinois 60633

Mr. James C. Slifer
Director of Highways
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62794

Mr. John P. Kos
District Engineer
Illinois Department of Transportation
201 West Center Court
Schaumburg, Illinois 60190-1096
Attn: Mr. Jim Skvarla

Mr. Bruce C. Spiter
Metge, Spitzer & Kreid
33 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

Exhibit A

Commission Order, page 2, 2nd paragraph

The City, Indiana Harbor, Norfolk, and Arrow have entered into a stipulated agreement and there is no opposition to the project. This is a three pronged project involving the demolition of a viaduct which holds no track and is unused; the construction of a new crossing over the tracks of the Norfolk equipped with automatic flashing lights, gates, and bells; and the reconstruction of an existing crossing over the tracks of ~~the Indiana Harbor~~ Arrow Terminals, L.P. equipped with crossbuck signs.

Commission Order, page 2, 5th paragraph

Upon completion of the 126th Place project, it is estimated that the roadway will carry 9,000 vehicles each day, including an estimated 700 tractor trailer combinations. The installation of automatic warning devices at the Norfolk crossing and installation of reflectorized crossbuck signs at the ~~Indiana Harbor~~ Arrow Terminals, L.P. crossing are necessary in the interests of public safety.

Commission Order, page 3, 7th Finding paragraph

(7) public convenience and necessity require the reconstruction of an existing at-grade crossing of 126th Place with the tracks of ~~the Indiana Harbor Belt Railroad Company~~ Arrow Terminals, L.P. at a point 1375 feet east of Torrence Avenue and 2700 feet north of 120th street, where 126th Place crosses an existing rail spur that extends into the private property of Arrow Terminals, L.P. at about Muskegon Avenue within the City of Chicago, Illinois; warning devices at this crossing should consist of reflectorized crossbuck signs; this at-grade crossing is a needed thoroughfare and is used by statewide traffic; costs of the reconstruction of the existing at-grade crossing shall be borne by the City of Chicago;

Commission Order, page 4, 9th Finding paragraph

(9) proper crossing surfaces should be constructed at the existing crossing and the new crossing; the costs of construction are to borne by the City of Chicago ~~as well as the costs of future maintenance;~~

Commission Order, page 4, 2nd Ordering paragraph

IT IS FURTHER ORDERED that the Norfolk Southern Railway Company be, and the same is hereby required to construct a new at-grade crossing where its tracks cross 126th Place at Mile Post 3.6, a location approximately 3400 feet east of Torrence Avenue and 2800 feet north of 130th Street within the City of Chicago. Warning devices at this crossing should consist of automatic flashing light signals, gates, bells, and constant warning time circuitry. Costs of the warning devices and a proper asphalt crossing surface shall be the financial responsibility of the

City of Chicago. Future maintenance of the warning devices shall be the responsibility of the Norfolk Southern Railway Company ~~at the cost of the City of Chicago. Costs of the future maintenance of the crossing surface shall be the responsibility of the City of Chicago.~~

Commission Order, page 4, 3rd Ordering paragraph

IT IS FURTHER ORDERED that ~~Indiana Harbor Belt Railroad Company~~ Arrow Terminals, L.P. be, and the same is hereby required to reconstruct the existing at-grade crossing at its tracks at a point 1375 feet east of Torrence Avenue and 2700 feet north of 130th street, where 126th Place crosses an existing rail spur which extends into the private property of Arrow Terminals, L.P. at about Muskegon Avenue within the City of Chicago. The train operations will continue to be performed by Indiana Harbor Belt Railroad Company. The reconstructed crossing should be equipped with reflectorized crossbuck signs. Costs for the warning devices and a proper asphalt crossing surface, ~~as well as costs of their future maintenance~~ shall be the financial responsibility of the City of Chicago.

Commission Order, page 5, 5th Ordering paragraph

IT IS FURTHER ORDERED that ~~the Indiana Harbor Belt Railroad Company~~ Arrow Terminals, L.P. be, and it is hereby required and directed to install reflectorized crossbuck signs at the crossing of its tracks described in the third ordering paragraph hereinabove.

Commission Order, page 5, 6th Ordering paragraph

IT IS FURTHER ORDERED that the Indiana Harbor Belt Railroad Company, the Norfolk Southern Railway Company, Arrow Terminals, L.P. and the City of Chicago are hereby required and directed to proceed immediately in performing the work required of them and shall complete these respective improvements within twelve (12) months of the date of this Order.

Commission Order, page 5, 10th Ordering paragraph

IT IS FURTHER ORDERED that the Norfolk Southern Railway Company, the Indiana Harbor Belt Railroad Company, Arrow Terminals, L.P. and the City of Chicago, within six months from the date of this Order, shall each submit a written report to the Director of Processing, transportation Division of the Commission, stating the progress each has made toward the accomplishment of their respective work herein required.

Commission Order, page 6, 12th Ordering paragraph

IT IS FURTHER ORDERED that the City of Chicago, Cook County, Illinois and Arrow Terminals, L.P., shall submit to the Director of Processing, Transportation Division of the Commission, within five days of the completion of its work herein required, a written notice of said completion.